

IC 4-3-19

Chapter 19. Public Highway Private Enterprise Review Board

IC 4-3-19-1

"Board" defined

Sec. 1. As used in this chapter, "board" refers to the public highway private enterprise review board established by section 5 of this chapter.

As added by P.L.12-1991, SEC.1.

IC 4-3-19-2

"Department" defined

Sec. 2. As used in this chapter, "department" means:

- (1) the Indiana department of transportation established under IC 8-23-2-1; or
- (2) a public highway department that is:
 - (A) under the political control of a unit (as defined in IC 36-1-2-23); and
 - (B) involved in the construction, maintenance, or repair of a public highway (as defined in IC 9-25-2-4).

As added by P.L.12-1991, SEC.1.

IC 4-3-19-3

"Person" defined

Sec. 3. As used in this chapter, "person" means an individual, a corporation, a limited liability company, a partnership, or other legal entity.

As added by P.L.12-1991, SEC.1. Amended by P.L.8-1993, SEC.11.

IC 4-3-19-4

"Public highway" defined

Sec. 4. As used in this chapter, "public highway" has the meaning set forth in IC 9-25-2-4.

As added by P.L.12-1991, SEC.1.

IC 4-3-19-5

Establishment of board

Sec. 5. The public highway private enterprise review board is established.

As added by P.L.12-1991, SEC.1. Amended by P.L.1-1994, SEC.8.

IC 4-3-19-6

Membership; appointment

Sec. 6. The board consists of fifteen (15) members as follows:

- (1) Eleven (11) voting members appointed by the governor.
- (2) Two (2) advisory members appointed by the speaker of the house of representatives.
- (3) Two (2) advisory members appointed by the president pro tempore of the senate.

As added by P.L.12-1991, SEC.1.

IC 4-3-19-7**Appointment of voting members; conditions**

Sec. 7. The members appointed by the governor must include at least the following:

- (1) Two (2) representatives of small business.
- (2) One (1) representative of the Indiana State Building Trades Council.
- (3) One (1) representative from the Indiana State AFL-CIO.

As added by P.L.12-1991, SEC.1.

IC 4-3-19-8**Appointment of voting members; political affiliation**

Sec. 8. Not more than six (6) of the board members appointed by the governor may be members of the same political party.

As added by P.L.12-1991, SEC.1.

IC 4-3-19-9**Appointment of advisory members by speaker; conditions**

Sec. 9. The members appointed by the speaker of the house of representatives:

- (1) must be members of the house of representatives when appointed; and
- (2) may not be members of the same political party.

As added by P.L.12-1991, SEC.1.

IC 4-3-19-10**Appointment of advisory members by president pro tempore; conditions**

Sec. 10. The members appointed by the president pro tempore of the senate:

- (1) must be members of the senate when appointed; and
- (2) may not be members of the same political party.

As added by P.L.12-1991, SEC.1.

IC 4-3-19-11**Voting members; term**

Sec. 11. A member appointed by the governor serves a term of four (4) years.

As added by P.L.12-1991, SEC.1.

IC 4-3-19-12**Advisory members; term**

Sec. 12. The term of an advisory member expires on the date of the next general election following the appointment.

As added by P.L.12-1991, SEC.1.

IC 4-3-19-13**Voting members; vacancies**

Sec. 13. A member appointed by the governor vacates the member's seat on the board if the member becomes a member of the

general assembly.
As added by P.L.12-1991, SEC.1.

IC 4-3-19-14

Advisory members; vacancies

Sec. 14. A member described under section 9 or 10 of this chapter vacates the member's seat on the board whenever the member ceases to be a member of the chamber of the general assembly that the member represented when the member was appointed.

As added by P.L.12-1991, SEC.1.

IC 4-3-19-15

Appointments to vacancies

Sec. 15. The appointing authority shall fill a vacancy on the board for the unexpired term.

As added by P.L.12-1991, SEC.1.

IC 4-3-19-16

Compensation; expense reimbursements

Sec. 16. Each member of the board who is not an elected official is entitled to the minimum salary per diem provided by IC 4-10-11-2.1(b). Each board member is also entitled to reimbursement for traveling expenses and other expenses actually incurred in connection with the member's duties, as provided in the state travel policies and procedures established by the Indiana department of administration and approved by the budget agency.

As added by P.L.12-1991, SEC.1.

IC 4-3-19-17

Chairman; appointment

Sec. 17. The governor shall appoint the chairman of the board before August 1 of each year.

As added by P.L.12-1991, SEC.1.

IC 4-3-19-18

Meetings

Sec. 18. The board shall meet at the call of the chairman.

As added by P.L.12-1991, SEC.1.

IC 4-3-19-19

Quorum

Sec. 19. A quorum for a meeting of the board consists of six (6) voting members.

As added by P.L.12-1991, SEC.1.

IC 4-3-19-20

Votes required for action

Sec. 20. Eight (8) affirmative votes are required for the board to take action.

As added by P.L.12-1991, SEC.1.

IC 4-3-19-21

Voting restrictions; advisory members

Sec. 21. An advisory member may not vote on a question before the board.

As added by P.L.12-1991, SEC.1.

IC 4-3-19-22

Duties

Sec. 22. The board shall review Indiana statutes, rules, and practices to determine if legislation is desirable to restrict or prohibit governmental competition with private enterprise in the area of:

- (1) construction;
- (2) maintenance; or
- (3) repair;

of a public highway.

As added by P.L.12-1991, SEC.1.

IC 4-3-19-23

Complaints against a department; filing requirements

Sec. 23. A person who believes that a department has violated IC 8-23-9, IC 8-23-11, or IC 36-1-12-3 may file a written complaint with the board. The complaint must set forth the alleged violation.

As added by P.L.12-1991, SEC.1.

IC 4-3-19-24

Transmission of complaint to department

Sec. 24. The board shall transmit a copy of a complaint that complies with section 23 of this chapter to the department.

As added by P.L.12-1991, SEC.1.

IC 4-3-19-25

Responses; requirements for submission

Sec. 25. A department named in a complaint may submit a written response to the board not later than forty-five (45) days after the board transmits a copy of the complaint.

As added by P.L.12-1991, SEC.1.

IC 4-3-19-26

Responses; contents

Sec. 26. A response under section 25 of this chapter may indicate whether the allegation is true or false and whether the department has taken remedial action.

As added by P.L.12-1991, SEC.1.

IC 4-3-19-27

Hearings; issuance of advisory opinions

Sec. 27. The board shall hold a hearing on the complaint and issue an advisory opinion to the department.

As added by P.L.12-1991, SEC.1.

IC 4-3-19-28**Advisory opinions; requirements**

Sec. 28. The opinion issued under section 27 of this chapter must:

- (1) state whether the department has violated IC 8-23-9, IC 8-23-11, or IC 36-1-12-3; and
- (2) be forwarded to the person who filed the complaint and the department not later than sixty (60) days after the hearing is conducted.

As added by P.L.12-1991, SEC.1.

IC 4-3-19-29**Report; contents**

Sec. 29. The board shall submit a report to the governor and the legislative council before November 1 of each year. The report must include the findings and recommendations of the board. The report submitted to the legislative council must be in an electronic format under IC 5-14-6.

As added by P.L.12-1991, SEC.1. Amended by P.L.28-2004, SEC.22.